

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRACY JAHR, et. al.,
Plaintiffs,

v.

UNITED STATES OF AMERICA
Defendant.

No. C14-1884-MJP

**DECLARATION OF BRIAN C.
BROOK IN SUPPORT OF
PLAINTIFFS' OPPOSITION TO
DEFENDANT'S MOTION TO
DISMISS FOR LACK OF SUBJECT
MATTER JURISDICTION**

NOTED FOR CONSIDERATION:
Friday, April 29, 2016

I, Brian C. Brook, state and declare as follows:

1. I am an attorney at law of the States of New York and New Jersey and the District of Columbia, and a partner with the law firm of Clinton Brook & Peed, attorneys for plaintiffs in this matter. I am admitted to practice *pro hac vice* in this Court.
2. I submit this Declaration, in accordance with 28 U.S.C. § 1746, in support of Plaintiffs' Response to Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction, which was timely filed on April 25, 2016.

- 1 3. The reason for this late Declaration is to attach Exhibits that were omitted from
- 2 the previous filing due to unresolved confidentiality concerns relating to
- 3 documents that had been produced by the Government in this matter.
- 4
- 5 4. Those concerns having been resolved on April 28, 2016, the following documents
- 6 that were produced by the Government in this matter are now submitted as
- 7 follows:
- 8 a. **Exhibit 2** is a copy of the Enlisted Record Brief of Michael Brett Roark
- 9 (redacted to remove personal identifying information), dated August 26,
- 10 2011.
- 11 b. **Exhibit 3** is a copy of the Certificate of Release or Discharge from Active
- 12 Duty for Michael Roark (redacted to remove personal identifying
- 13 information), dated December 2, 2011.
- 14 c. **Exhibit 4** is a copy of two memoranda relating to the separation of Isaac
- 15 Aguigui from the United States Military Academy Preparatory School,
- 16 dated November 10 and 12, 2009.
- 17 d. **Exhibit 5** is a copy of the Certificate of Release or Discharge from Active
- 18 Duty of Isaac Glen Aguigui and associated documents (redacted to remove
- 19 personal identifying information), dated November 12, 2009.
- 20 e. **Exhibit 6** is a copy of the Enlisted Record Brief of Isaac Glen Aguigui
- 21 (redacted to remove personal identifying information), dated July 29,
- 22 2014.
- 23 f. **Exhibit 7** is a copy of the Military Protective Order issued against Isaac
- 24 Aguigui, dated March 15, 2011.
- 25
- 26
- 27
- 28

- 1 g. **Exhibit 8** is a copy of the Developmental Counseling Form of Isaac
2 Aguigui, dated March 15, 2011.
- 3 h. **Exhibit 9** is a copy of the Developmental Counseling Form of Isaac
4 Aguigui, dated April 15, 2011.
- 5 i. **Exhibit 10** is a copy of the Record of Proceedings Under Article 15,
6 UCMJ against Isaac Aguigui (redacted to remove personal identifying
7 information), dated May 5, 2011.
- 8 j. **Exhibit 11** is a copy of the Sworn Statement of Isaac G. Aguigui (redacted
9 to remove personal identifying information), dated May 26, 2011.
- 10 k. **Exhibit 12** is a copy of the Sworn Statement of Jessica Rae Velez
11 (redacted to remove personal identifying information), dated June 15,
12 2011.
- 13 l. **Exhibit 13** is a copy of excerpts from the Staff Journal of the Fort Stewart
14 Casualty Assistance Office, dated July 18-21, 2011.
- 15 m. **Exhibit 16** is a copy of excerpts from the transcript of the Article 32
16 hearing testimony of Justin Kapinus, dated July 1, 2013.
- 17 n. **Exhibit 17** is a copy of the Sworn Statement of Cheryl Mancill (redacted
18 to remove personal identifying information), dated August 7, 2012.
- 19 o. **Exhibit 18** is a copy of the Sworn Statement of Alyssa Faltysek (redacted
20 to remove personal identifying information), dated July 10, 2012.
- 21 p. **Exhibit 19** is a copy of the Bureau of Alcohol, Tobacco, Firearms and
22 Explosives Summary of the December 9, 2011 Interview of Nicholas
23 24
25
26
27
28

1 Gray-Thompson (redacted to remove personal identifying information),
2 dated December 28, 2011.

- 3 5. Exhibits 1, 14, 15, and 20 were filed by ECF along with Plaintiffs' Response on
4 April 25, 2016, and accordingly are not resubmitted with this Declaration.
5
6 6. A courtesy copy of the combined Response and all Exhibits will be submitted as
7 one document to chambers shortly, since it exceeds 50 pages in total.

8 I declare under penalty of perjury that the foregoing is true and correct.

9
10 Dated: April 28, 2016

11
12 /s Brian C. Brook
13 BRIAN C. BROOK, admitted *pro hac vice*
14 CLINTON BROOK & PEED
15 641 Lexington Avenue, 13th Floor
16 New York, NY 10022
17 Telephone No. (212) 328-9559
18 Fax No. (212) 328-9560
19 Email brian@clintonbrook.com
20 Attorney for Plaintiffs
21
22
23
24
25
26
27
28